

Original Petition on October 12, 2018 under Cause Number 2019CI22193 in the 407th District Court, Bexar County, Texas. According to the Plaintiffs' Original Petition in that suit, the Plaintiffs seek to recover damages from Defendants over \$200,000.00 but not more than \$1,000,000.00. Metropolitan was served the Plaintiffs' Original Petition in that suit on October 31, 2018. Therefore, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b). A true and correct copy of all process, pleadings, and the orders served upon Metropolitan in the state court action are being filed with this Notice as required by 28 U.S.C. § 1446(a), and are attached hereto as Exhibit "A".

II. DIVERSITY JURISDICTION

2.1 The District Courts of the United States have original jurisdiction over this action based on complete diversity of citizenship between the parties as contemplated by 28 U.S.C. § 1332(a). The Plaintiffs are now, and were at the time the lawsuit was filed, residents of the State of Texas, domiciled in Bexar County, Texas. (*See* Plaintiffs' Original Petition). Defendant Metropolitan is now, and was at the time the action was commenced, an unincorporated association of underwriters whose individual underwriters are citizens of the States of Illinois, Ohio, Rhode Island, South Carolina, and Wisconsin, and are not residents or citizens of Texas. "The United States Supreme Court has consistently held for over one hundred years that the citizenship of an unincorporated association [such as Metropolitan] is determined . . . solely by the citizenship of its members." *See Massey v. State Farm Lloyds Ins. Co.*, 993 F. Supp. 568, 570 (S.D. Tex. 1998); *see also Gore v. Stenson*, 616 F. Supp. 895, 898-899 (S.D. Tex. 1984) (recognizing years of Supreme Court precedent reaffirming the treatment of unincorporated

associations for jurisdictional purposes).¹ Accordingly, Metropolitan is a citizen of the States of Illinois, Ohio, Rhode Island, South Carolina, and Wisconsin, and complete diversity exists.

2.2 There being complete diversity between the Plaintiffs and Defendant Metropolitan, this case is properly removed to the U.S. District Court for the Western District of Texas, San Antonio Division.

III.

REMOVAL PROPER

3.1 Under 28 U.S.C. § 1441(a), the removed action is proper in this Court as the district and division embracing the place where the state court action is pending.

3.2 Defendant Metropolitan, the removing party, will promptly give the parties written notice of the filing of this Notice of Removal as required by 28 U.S.C. § 1446(d). Metropolitan will promptly file a copy of this Notice of Removal with the clerk of the 407th District Court, Bexar County, Texas, where the action is currently pending, also pursuant to 28 U.S.C. § 1446(d).

IV.

EXHIBITS ACCOMPANYING REMOVAL

4.1 In conjunction with filing this Notice of Removal, Defendant Metropolitan files the following documents as exhibits:

Exhibit “A” – Index/Documents filed in the 407th District Court, Bexar County, Texas

WHEREFORE, PREMISES CONSIDERED, Defendant Metropolitan Lloyds Insurance Company of Texas, pursuant to these statutes and in conformance with the requirements set forth in 28 U.S.C. § 1446, removes Cause Number 2019CI22193, styled, *Georgianna S. Gross and*

¹ “Fifth Circuit jurisprudence is equally clear.” *See Massey*, F. Supp. At 570 (citing *International Paper Co. v. Denkmann Assoc.*, 116 F.3d 134, 137 (5th Cir. 1997).

Sheldon G. Gross v. Metropolitan Lloyds Insurance Company of Texas, from the 407th District Court, Bexar County, Texas to this Court on November 21, 2018, for trial and determination.

Respectfully submitted,

STACY | CONDER | ALLEN LLP

/s/ Dennis D. Conder

By: Dennis D. Conder
State Bar No. 04656400

901 Main Street, Suite 6200
Dallas, Texas 75202
(214) 748-5000
(214) 748-1421 FAX
conder@stacyconder.com

**ATTORNEYS FOR DEFENDANT
METROPOLITAN LLOYDS INSURANCE
COMPANY OF TEXAS**

CERTIFICATE OF SERVICE

On November 27, 2019, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Western of Texas, using the electronic case filing system of the court. I hereby certify that I have served counsel of record electronically and/or by facsimile and/or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2) and by the Texas Rules of Civil Procedure.

/s/ - Dennis D. Conder

Dennis D. Conder

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